

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

**DENNIS AYALA,**

**Plaintiff(s),**

**- against -**

**THE CITY OF NEW YORK, POLICE OFFICER  
EEVAN JOHNSON (Shield No. 11101, Tax ID #949143)  
POLICE OFFICER "JOHN DOE",**

**Defendant(s).**

**JUDGMENT FOR PROMPT  
PAYMENT FOLLOWING  
SETTLEMENT**


**INDEX No. 23000/2012**

**Law Dept. No. 2013-011141**

Upon reading and filing the annexed affirmation, dated August 5, 2014, by Michael F. Rubin, Esq., attorney for the plaintiffs herein pursuant to CPLR 5003-a, it is;

**ORDERED, ADJUDGED AND DECREED**, that the plaintiff, Dennis Ayala residing at [REDACTED] New York, New York 10038 recover of the defendant, 100 Church Street, New York, New York, the sum of (\$37,500.00) Dollars, with interest thereon from the day of April 21, 2014, in the sum of (\$ 1003.12 ) Dollars, together with costs and disbursements as taxed in the sum of \$ 560.00 , amounting in all to the sum of (\$ 39,063.12 ) Dollars, and that the plaintiff have execution therefor.

Judgment signed this day of AUGUST 6, 2014.

  
\_\_\_\_\_  
Luis M. Diaz  
COUNTY CLERK  
AUG 06 2014

**RECEIVED BY:**

**AUG 06 2014**

**Judgment Department**



T 156—All of Case (with CPLR motions) Blank Form 1-95

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www.blumberg.comSUPREME COURT  
COUNTY OF BRONX

Dennis Ayala

Plaintiff(s)

against

City of New York, et al.

Defendant(s)

Costs of

index NO. 23000/2012

## COSTS

Costs before note of issue ..... \$ 200  
 CPLR §8201 subd. 1  
 Costs after note of issue .....  
 CPLR §8201 subd. 2  
 Trial of issue .....  
 CPLR §8201 subd. 3  
 Allowance by statute .....  
 CPLR §8302(a), (b)  
 Additional allowance .....  
 CPLR §8302 (d)  
 Motion costs .....  
 CPLR §8202  
 Appeal to Appellate Term .....  
 CPLR §8203 (b)  
 Appeal to Appellate Division .....  
 CPLR §8203 (a)  
 Appeal to Court of Appeals .....  
 CPLR §8204  
 Costs upon frivolous claims  
 and counterclaims .....  
 CPLR §8303-a

## DISBURSEMENTS

Fee for index number CPLR §8018(a) ..... \$ 210  
 Referee's fees CPLR §8301(a)(1), 8003(a) .....  
 Commissioner's compensation CPLR §8301(a)(2) .....  
 Clerk's fee, filing notice of pend. or attach. CPLR §8021(a)(10)  
 Entering and docketing judgment CPLR §8301(a)(7), 8016(a)(2)  
 Paid for searches CPLR §8301(a)(10) .....  
 Affidavits & acknowledgments CPLR §8009 .....  
 Serving copy summons & complaint CPLR §8011(b)(1), 8301(d) .....  
 Request for judicial intervention .....  
 Note of issue CPLR §8020(a) .....  
 Paid referee's report CPLR §8301(a)(12) .....  
 Certifying copies of papers CPLR §8301(a)(4) .....  
 Sanctions for place CPLR §5020(a), 8021 .....  
 Transcripts and filing CPLR §8021 .....  
 Certified copy of judgment CPLR §8021 .....  
 Resignation CPLR §8301(a)(12) .....  
 Jury fee CPLR §8020(c) .....  
 Stenographers' fees CPLR §8002, 8301 .....  
 Sheriff's fees on execution CPLR §8011, 8012 .....  
 Sheriff's fees, attachment, arrest, etc. CPLR §8011 .....  
 Paid pending cases CPLR §8301(a)(6) .....  
 Clerk's fees Court of Appeals CPLR §8301(a)(12) .....  
 Paid copies of papers CPLR §8016(a)(4) .....  
 Master's expenses CPLR §8301(b) .....  
 Fee for publication CPLR §8301(a)(3) .....  
 Serving subpoenas CPLR §8011(b)(1), 8301(d) .....  
 Paid for Search CPLR §8301(a)(10) .....  
 Referee's report .....  
 Attendance of witnesses CPLR §8001(a)(b)(c), 8301(a)(1) .....

\$ 210

30  
95

25

I hereby certify that I have  
adjusted this bill of costs at

\$ 560.00

AUG 06 2014

Date

Clerk

Luis M. Diaz

COSTS ..... \$ 200

DISBURSEMENTS ..... \$ 360

\$ 200

\$ 360

\$ 560

\$ 360

STATE OF NEW YORK, COUNTY OF BRONX

ss.

ATTORNEY'S AFFIRMATION

The undersigned, an attorney admitted to practice in the courts of this state, affirms: MICHAEL F. RUBIN, J.S.R.  
 of KELLY + RUBIN LLP  
 the attorney(s) of record for the PLAINTIFF(S) in the above entitled action; that the foregoing disbursements have been or will necessarily be made or incurred in this action and are reasonable in amount and that each of the persons named as witnesses attended as such witness on the trial, hearing or examination before trial herein the number of days set opposite their names; that each of said persons resided the number of miles set opposite their names from the place of said trial, hearing or examination; and each of said persons, as such witness as aforesaid, necessarily traveled the number of miles so set opposite their names in traveling to, and the same distance in returning from, the same place of trial, hearing or examination; and that copies of documents or papers as charged herein were actually and necessarily obtained for use.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: AUG 5, 2014

The above signed must be printed name

Index No. 2500W/2012  
Supreme Court  
COUNTY OF BRONX

Dennis Ayala  
 Plaintiff(s)  
 against

City of New York, et al.  
 Defendant(s)

Bill of Costs  
 and Notice of Taxation

Please Take Notice that the within is a true copy of the items of costs and disbursements in the within action taxed, and that the same will be taxed by the Clerk of THE SUPREME COURT, at his/her office in the courthouse thereof on AUGUST 6, 2014 at 9:30 AM of that day—and the amount inserted in the judgment. Yours, etc.

Kelly + Rubin, LLP  
 (Attorney(s) for  
PLAINTIFF

To NYC CCLP Counsel

Attorney(s) for DEFENDANT  
 Service of the within bill of costs and notice of taxation is hereby admitted on

Attorney(s) for  
 \* State not use (CPLR §2402, §403)

being duly sworn, deposes and says; that deponent is not a party to the action, is over 18 years of age and resides at

That on  
 deponent served the within bill of costs and notice of taxation on

attorney(s) for  
 certain, at his/her office at:

suing his/her absence from said office

the next either (a) or (b)

) by then and there leaving a true copy of the same with

either clerk, partner, person having charge of said office,

and said office being closed, by depositing a true copy of the same, enclosed in a sealed wrapper directed to said attorney(s), in office letter drop or box.

on to before me on

to of New York, County of

ss.  
 being duly sworn, deposes and says; that deponent is not a party to the action, is over 18 years of age and resides at

on

deponent served the within bill of costs and notice of taxation on

attorney(s) for

address designated by said attorney(s) for that purpose by sending a true copy of same enclosed in a postpaid properly sealed wrapper, to—a post office—official depository—the exclusive care and custody of the United States Postal Service within New York State.

to before me on

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**  
**DENNIS AYALA**

**Plaintiff(s),**

**- against -**

**THE CITY OF NEW YORK, POLICE OFFICER  
EVAN JOHNSON (Shield No. 11101, Tax Id. No 949143)  
and POLICEOFFICER "JOHN DOE",**

**Defendant(s).**

**STATE OF NEW YORK    )  
                                  ) ss.:  
COUNTY OF NEW YORK)**

**AFFIRMATION IN  
SUPPORT OF JUDGMENT  
FOR PROMPT PAYMENT  
FOLLOWING SETTLEMENT**

**INDEX No. 23000/2012**

**Law Dept. No. 2013-011141**

**RECEIVED BY:**

**AUG 05 2014**

**Judgment Department**

**MICHAEL F. RUBIN, ESQ.**, an attorney duly admitted to practice before the courts of the State of New York and not a party to this action, hereby affirms the following under penalty of perjury:

1. I am a member of the law firm of Kelly & Rubin, LLP., the attorneys for the plaintiff, in this action, and am fully familiar with the facts of this matter as set forth herein. I am submitting this affirmation in support of the entry of a judgment, pursuant to CPLR 5003-a(e), on behalf of plaintiff because of defendant, The City of New York failure to comply with the provisions of CPLR 5003-a(a).

2. Plaintiff brought this action to recover damages for False Arrest and Unlawful Imprisonment. The action was commenced on November 30, 2012, by the filing of a summons and complaint in Supreme Court, Bronx County. Defendant duly appeared by serving an answer on April 9, 2013.

3. The incident occurred on October 18, 2011, at about 6:30 p.m., in front of 315 East 187<sup>th</sup> Street and Valentine Avenue, in the County of the Bronx, City and State of New York

while plaintiff was attempting to park his car. The defendants wrongly and falsely accused, arrested, imprisoned, and detained the plaintiff, without any rights or grounds therefore.

4. On April 17, 2014, Gianna M. Famulari, Esq., on behalf of defendant, The City of New York and Robert P. Kelly, Esq., on behalf of plaintiff, reached a settlement, whereby defendant agreed to pay plaintiff a sum of \$37,500.00. See Stipulation of Settlement attached as Exhibit "A". Thereafter, on April 23, 2014 defendant's attorney received a duly executed release (attached as Exhibit "B") and a duly executed stipulation discontinuing the action, as well as proof of delivery upon defendant (attached as Exhibit "C"). Plaintiff thereby tendered to defendant the release and stipulation in compliance with CPLR 5003-a(a).

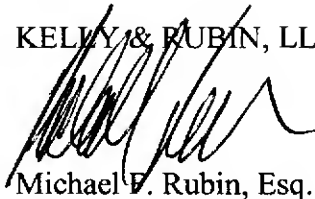
5. More than 90 days have elapsed since the release and stipulation of discontinuance were tendered, and defendant has failed to pay the sum due to the plaintiff, in the amount of \$37,500.00 pursuant to the settlement.

**WHEREFORE**, it is respectfully requested that judgment be entered pursuant to CPLR 5003-a(e) in favor of plaintiff and against defendant in the amount set forth in the release, with interest on that amount from the date on which the release and stipulation of discontinuance were tendered, together with the costs and disbursements of this action.

DATED: New York, New York  
August 5, 2014

Yours etc.

KELLY & RUBIN, LLP.



Michael F. Rubin, Esq.  
Attorneys for Plaintiff(s)  
275 Seventh Avenue, Suite 1505  
New York, N.Y. 10001  
Tel. (212) 691-9393

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

DENNIS AYALA

Plaintiff(s).

-against-

THE CITY OF NEW YORK, POLICE  
OFFICER EVAN JOHNSON (Shield No  
11101, Tax Id. No. 949143) and POLICE  
OFFICER "JOHN DOE"

Defendant(s).

STIPULATION OF  
SETTLEMENT

INDEX #:  
23000 2012  
NYC Law Dep't #:  
2013-011141  
NYC Comptroller #:  
2012PI001040

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned attorneys of record, based upon full authority given by the respective parties, that this action is settled for the total amount of THIRTYSEVENTHousand FIVE HUNDRED Dollars (\$37,500.00), inclusive of costs, interest, attorney's fees, and disbursements, and subject to statutory liens and/or statutory rights to reimbursement by third-parties, including Medicaid, Medicare, Medicare Advantage Plans (MAPs) and prior attorneys, and that for purposes of Medicaid, Medicare, and any other statutory right of reimbursement, this settlement includes compensation for medical expenses.

IT IS FURTHER STIPULATED AND AGREED that based upon this settlement, the plaintiff(s) agree to discontinue this action with prejudice and to release and discharge the City of New York [and Police Officer Evan Johnson (Shield No. 11101, Tax Id #949143), ~~AND POLICE OFFICER "JOHN DOE"~~] and its then past and present officers, managers, administrators, employees, agents, and representatives, and all other individually named defendants and entities represented and/or indemnified by the City of New York (hereafter, "RELEASEES"). Plaintiff has been advised and agrees that he/she is forever barred from seeking any other recovery relating to the subject incident as against the RELEASEES.

IT IS FURTHER STIPULATED AND AGREED that from the total settlement sum, plaintiff(s) shall pay a sum not to exceed N/A Dollars (\$N/A.00), which it is agreed reflects medical expenses in this case, to the New York City Human Resources Administration ("HRA") in consideration of HRA's partial non-assertion of its Medicaid lien against the proceeds of this settlement, and it is further STIPULATED AND AGREED that plaintiff shall pay a sum not to exceed N/A Dollars (\$N/A.00) in consideration of HRA's partial non-assertion of its Public Assistance lien against the proceeds of this settlement, and it is further STIPULATED AND AGREED that HRA will limit its collection for Medicaid and Public Assistance against the proceeds of this settlement to a total collection amount of N/A Dollars (\$N/A.00), or to the amount of the actual liens should they be less than the agreed upon amounts set forth above.

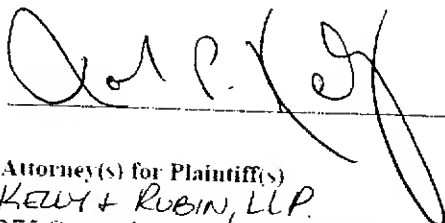
IT IS FURTHER STIPULATED AND AGREED that prior to tendering the requisite documents for payment, as provided in CPLR 5003-a(b), any Medicare-recipient plaintiff shall have notified his/her Medicare provider of the settlement and obtained and submitted with the closing papers a final demand letter from the Medicare provider for reimbursement of secondary

payments made related to the claimed injury in this matter. A Medicare Set-Aside Allocation for future medical costs related to the claimed injury may be necessary pursuant to 42 U.S.C. §1395y(b).

**IT IS FURTHER STIPULATED AND AGREED** that plaintiff agrees to hold harmless RELEASEES, regarding any liens, claims, or past Medicare or secondary payments, presently known or unknown in connection with this matter. If the Medicare claim has not been satisfied, defendant(s) reserve(s) the right to issue a multi-party settlement check, naming Medicare as a payee, or to issue a check to Medicare directly based on the Medicare provider's final demand letter. Upon tender of all required settlement papers, payment of the settlement shall be made in accordance with CPLR 5003-a(b). Plaintiff is required to obtain a release discharge of any attorney's lien asserted against the proceeds. *Faxed signatures shall be deemed originals.*

**IT IS FURTHER STIPULATED AND AGREED** that nothing contained herein shall be deemed to be an admission of liability by the defendants herein nor constitute a policy or practice of the City of New York or any agency thereof. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

Dated New York, NY  
April 17, 2014

1) 

Attorney(s) for Plaintiff(s)  
KELLY + RUBIN, LLP.  
275 Seventh Avenue, Ste 1505

New York, NY, 10001

Tel: (212) 691-9393

By: Robert P. Kelly

2) \_\_\_\_\_ for  
Zachary W. Carter, Esq.  
Corporation Counsel  
Attorney for Defendant(s)  
CITY OF NEW YORK

\_\_\_\_\_, NY.

Tel: ( )

By: \_\_\_\_\_

3) \_\_\_\_\_

Attorney(s) for Defendant(s)

\_\_\_\_\_, NY.

Tel: ( )

By: \_\_\_\_\_

4) \_\_\_\_\_

Attorney(s) for Defendant(s)

\_\_\_\_\_, NY.

Tel: ( )

By: \_\_\_\_\_

GENERAL RELEASE

DENNIS AYALA

\_\_\_\_\_, the plaintiff in the action entitled  
DENNIS AYALA V. THE CITY OF NEW YORK, POLICE OFFICER EVAN JOHNSON (Shield No. 11101, Tax Id. No. 949143) and  
POLICE OFFICER "JOHN DOE"

SUPREME Court, BRONX County Index # 23000/2012, being over the age of eighteen  
(18) years and residing at \_\_\_\_\_

as "RELEASOR," in consideration of the payment of Thirty Seven Thousand Five Hundred Dollars  
(\$37,500.00), receipt whereof is hereby acknowledged, does hereby release and forever discharge  
the City of New York, and all past and present officers, directors, managers, administrators, employees,  
agents, assignees, lessees, and representatives of the City of New York, and all other individually named  
defendants and entities represented and/or indemnified by the City of New York, collectively the  
"RELEASEES", from any and all claims, causes of action, suits, debts, sums of money, accounts,  
controversies, transactions, occurrences, agreements, promises, damages, judgments, executions, and  
demands whatsoever, known or unknown, which RELEASOR had, now has or hereafter can, shall, or  
may have, either directly or through subrogees or other third persons, against the RELEASEES for, upon  
or by reason of any matter, cause or thing whatsoever that occurred through the date of this RELEASE.  
This RELEASE and settlement constitutes complete payment and satisfaction for all damages and  
injuries, including all claims for costs, expenses, attorney's fees and disbursements.

In further consideration of the payment set forth above, RELEASOR hereby waives, releases,  
and forever discharges RELEASEE from any and all claims, known or unknown, past and/or future  
conditional payments, arising out of the RELEASOR's Medicare eligibility for and receipt of Medicare  
benefits related to the claimed injury in this matter, and/or arising out of the provision of primary  
payment (or appropriate reimbursement), including causes of action pursuant to 42 U.S.C. section  
1395y(b)(3)(A) of the Medicare, Medicaid and SCHIP Extension Act of 2007.

The words "RELEASOR" and "RELEASEE" include all releasors and all releasees under this  
RELEASE.

This RELEASE may not be changed orally.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY  
UNDERSTANDS IT.

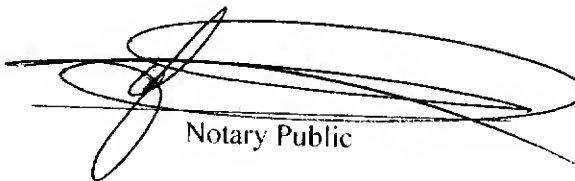
IN WITNESS WHEREOF, I have executed this Release this 17th day of April, 2014.

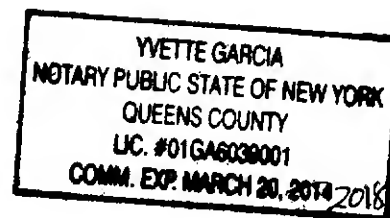
x. Dennis Ayala Plaintiff  
(Signature)



STATE OF NEW YORK: COUNTY OF NEW YORK : ss.:

On April 17, 2014, before me personally came  
DENNIS AYALA, to me known, and known to me to be  
the individual described in, and who executed the foregoing GENERAL RELEASE, and duly  
acknowledged to me that (s)he executed the same.

  
Notary Public



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

DENNIS AYALA

STIPULATION OF  
DISCONTINUANCE  
WITH PREJUDICE

Plaintiff(s),

Index #: 23000/2012

-against-

THE CITY OF NEW YORK, POLICE OFFICER EVAN JOHNSON  
(Shield No. 11101, Tax Id. No. 949143) and POLICE OFFICER  
"JOHN DOE"

NYC Law Dep't #:  
2013-011141

Defendant(s).

NYC Comptroller #:  
2012PI001040

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys of record for all the parties to the above-entitled action, that whereas no party is an infant or an incompetent person for whom a committee has been appointed or conservatee and no person not a party has an interest in the subject matter of the action, the above entitled action

☒ is discontinued as to all parties, including all cross-claims and counterclaims, with prejudice and without costs or disbursements to any party.

[If this stipulation is to discontinue the entire action, including all cross-claims and counterclaims, X the box above and cross out the language in the following paragraph. If this stipulation discontinues as to only some of the defendants, X the box below, insert the names of all other defendants the action is being discontinued and cross out the language in the above paragraph.]

☐ is discontinued with prejudice as against only defendant(s) CITY OF NEW YORK, and

without costs or disbursements to either parties.

A copy of this stipulation shall be deemed an original for all purposes and may be filed with the Clerk of the Court without further notice to any party.

Dated: NEW YORK, NY  
April 17, 2014

1) Kelly & Rubin, LLP.  
Attorney(s) for Plaintiff(s)

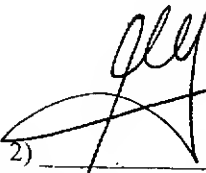
275 Seventh Avenue, Suite 1505

New York, New York, 10001

Tel: (212) 691-9393

By:

Sign above/  
print below Robert P. Kelly

2)  for  
Zachary W. Carter, Esq  
Corporation Counsel  
Attorney for Defendant(s)  
CITY OF NEW YORK and

, New York,

Tel: ( )

By:

Nancy A. Goldbach, Esq.

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<p>2. Article Number (Transfer)</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>PS Form 3800</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	

INDEX NO. 23000/2012

DENNIS AYALA,

Plaintiff(s),

- against -

THE CITY OF NEW YORK, POLICE OFFICER EVAN  
JOHNSON (Shield No. 11101, Tax Id No 949143) and  
POLICE OFFICER :JOHN DOE",

Defendant(s).

**AFFIRMATION IN SUPPORT OF JUDGMENT FOR PROMPT  
PAYMENT FOLLOWING SETTLEMENT**

Michael F. Rubin, Esq.

*Attorney for Plaintiff*

*Office and Post Office Address, Telephone*

KELLY & RUBIN, LLP.

275 Seventh Ave., Suite 1505

New York, New York 10001

(212) 691-9393

**Judgment entered**  
AUG 06 2014  
by M. G. on